

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Commodity Futures Trading Commission,

Plaintiff

v.

David Gilbert Saffron a/k/a David Gilbert and  
 Circle Society, Corp.,

Defendants

Case No.: 2:19-cv-01697-JAD-DJA

**Order Granting Motion to Strike Answer**

The Commission moves to strike the answer filed by David Gilbert Saffron, arguing that it was filed late and after default had been entered against him.<sup>1</sup> The Commission served Saffron with process in this case via publication.<sup>2</sup> Because that service was complete on November 29, 2019,<sup>3</sup> the deadline for Saffron to answer or otherwise respond to the complaint expired on December 20, 2019.<sup>4</sup> Three days after that deadline expired, the Clerk of Court, on the Commission's motion, entered default against Saffron.<sup>5</sup> Later that same day, the court received and entered Saffron's answer to the complaint.<sup>6</sup> As the Commission points out, Rule 55(c) provides that the proper remedy for a defendant who seeks to continue to litigate a matter after default has been entered against him is to move to set that default aside.

<sup>1</sup> ECF No. 45 (motion).

<sup>2</sup> See ECF Nos. 19 (order granting motion for service by publication), 27 (proof of service by publication on Saffron).

<sup>3</sup> ECF No. 27.

<sup>4</sup> See Fed. R. Civ. P. 12(a) (providing 21 days after service of process to file an answer).

<sup>5</sup> ECF Nos. 41 (motion for default), 42 (entry of default).

<sup>6</sup> ECF No. 43. Mr. Saffron submitted the answer in a pro se capacity.

1 Accordingly, the Commission's motion to set aside Saffron's answer **[ECF No. 45]** is  
2 **GRANTED**. If Saffron wants to defend the Commission's claims against him, he must first file  
3 a motion under Rule 55(c) to set the default aside, showing there is good cause to do so. Saffron  
4 has until **February 13, 2020**, to file a motion under Rule 55(c) to set aside the default that has  
5 been entered against him.

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U.S. District Judge Jennifer A. Dorsey  
January 30, 2020  
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